

AMENDED IN SENATE JULY 23, 2009

AMENDED IN SENATE JUNE 16, 2009

AMENDED IN ASSEMBLY MAY 5, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 811**

---

---

**Introduced by Assembly Member John A. Perez**

February 26, 2009

---

---

An act to amend Sections 1789.30 and 1789.35 of the Civil Code, and to amend Sections 13004.1 and 14610.1 of the Vehicle Code, relating to identification documents.

LEGISLATIVE COUNSEL'S DIGEST

AB 811, as amended, John A. Perez. Identification documents.

Existing law prohibits a check casher from charging a fee of more than \$10 to set up an initial account and issue an optional identification card for providing check cashing services.

This bill would prohibit a check casher from selling any identification card other than that optional check cashing identification card. The bill would also prohibit a check casher from requiring a customer to purchase a check cashing identification card to access services or from misrepresenting the use of that identification card. The bill would make related changes.

Existing law prohibits any person from manufacturing or selling an identification document of a size and form substantially similar to the identification cards issued by the Department of Motor Vehicles. Existing law provides that a violation of that provision is a misdemeanor punishable by a fine of \$1,000, which shall not be suspended, and the person is required to perform not less than 24 hours of community

service during hours when the person is not employed and is not attending school.

This bill would ~~increase~~ *change* the punishment for that crime to a fine ~~of between \$250 and \$1,000~~, 24 hours of community service, and, in the court's discretion, imprisonment in a county jail for not more than one year. *The bill would also provide that the court may place the defendant on probation, with conditions that include, but are not limited to, a fine and community service.* The bill would provide that no part of the fine or community service shall be suspended or waived. Because this bill would change the penalty for an existing crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1789.30 of the Civil Code is amended
- 2 to read:
- 3 1789.30. (a) (1) Every check casher, as applicable to the
- 4 services provided, shall post a complete, detailed, and unambiguous
- 5 schedule of all fees for (A) cashing checks, drafts, money orders,
- 6 or other commercial paper serving the same purpose, (B) the sale
- 7 or issuance of money orders, and (C) the initial issuance of any
- 8 identification card for accessing check cashing services as
- 9 described in subdivision (b) of Section 1789.35. Each check casher
- 10 shall also post a list of valid identification which is acceptable in
- 11 lieu of identification provided by the check casher. The information
- 12 required by this section shall be clear, legible, and in letters not
- 13 less than one-half inch in height. The information shall be posted
- 14 in a conspicuous location in the unobstructed view of the public
- 15 within the check casher's premises.
- 16 (2) A check casher may be required to file a return required by
- 17 Section 18631.7 of the Revenue and Taxation Code.
- 18 (b) (1) Except as provided in paragraph (2), this section shall
- 19 become operative December 31, 2004.

1 (2) (A) Except as provided in subparagraph (B), paragraph (2)  
2 of subdivision (a) shall apply to checks cashed on or after January  
3 1, 2006.

4 (B) The amendments to this section made by the act adding this  
5 subparagraph shall become operative on January 1, 2008.

6 SEC. 2. Section 1789.35 of the Civil Code is amended to read:

7 1789.35. (a) A check casher shall not charge a fee for cashing  
8 a payroll check or government check in excess of 3 percent if  
9 identification is provided by the customer, or 3.5 percent without  
10 the provision of identification, of the face amount of the check, or  
11 three dollars (\$3), whichever is greater. Identification, for purposes  
12 of this section, is limited to a California driver's license, a  
13 California identification card, or a valid United States military  
14 identification card. A check casher shall not sell any identification  
15 card except as provided in subdivision (b).

16 (b) A check casher may charge a fee of no more than ten dollars  
17 (\$10) to set up an initial account and issue an optional identification  
18 card for providing check cashing services. A replacement optional  
19 identification card may be issued at a cost not to exceed five dollars  
20 (\$5). A check casher shall not require a customer to purchase a  
21 check cashing identification card to access services, and it shall  
22 not misrepresent the use of that identification card.

23 (c) A check casher shall provide a receipt to the customer for  
24 each transaction.

25 (d) A check casher may charge a fee for cashing a personal  
26 check, as posted pursuant to Section 1789.30, for immediate deposit  
27 in an amount not to exceed 12 percent of the face value of the  
28 check.

29 (e) Any person who violates any provision of this section shall  
30 be liable for a civil penalty not to exceed two thousand dollars  
31 (\$2,000) for each violation, which shall be assessed and recovered  
32 in a civil action brought in the name of the people of the State of  
33 California by the Attorney General in any court of competent  
34 jurisdiction. Any action brought pursuant to this subdivision shall  
35 be commenced within four years of the date on which the act or  
36 transaction upon which the action is based occurred.

37 (f) A willful violation of this section is a misdemeanor.

38 (g) Any person who is injured by any violation of this section  
39 may bring an action for the recovery of damages, an equity  
40 proceeding to restrain and enjoin those violations, or both. The

1 amount awarded may be up to three times the damages actually  
2 incurred, but in no event less than the amount paid by the aggrieved  
3 consumer to a person subject to this section. If the plaintiff prevails,  
4 the plaintiff shall be awarded reasonable attorney's fees and costs.  
5 If a court determines by clear and convincing evidence that a breach  
6 or violation was willful, the court, in its discretion, may award  
7 punitive damages in addition to the amounts set forth above.

8 (h) This section shall become operative December 31, 2004.

9 SEC. 3. Section 13004.1 of the Vehicle Code is amended to  
10 read:

11 13004.1. (a) No person shall manufacture or sell an  
12 identification document of a size and form substantially similar to  
13 the identification cards issued by the department.

14 ~~(b) A violation of this section is a misdemeanor and shall be~~  
15 ~~punished by a fine of one thousand dollars (\$1,000), 24 hours of~~  
16 ~~community service, and, in the court's discretion, imprisonment~~  
17 ~~of not more than one year in a county jail. No part of the fine or~~  
18 ~~community service shall be suspended or waived.~~

19 *(b) A violation of this section is a misdemeanor and shall be*  
20 *punished as follows:*

21 *(1) The court shall impose a fine between two hundred fifty*  
22 *dollars (\$250) and one thousand dollars (\$1,000), inclusive, and*  
23 *24 hours of community service, during hours when the person is*  
24 *not employed or is not attending school. No part of the fine or*  
25 *community service shall be suspended or waived.*

26 *(2) In lieu of the penalties in paragraph (1) the court, in its*  
27 *discretion, may impose a jail term of up to one year and a fine of*  
28 *up to one thousand dollars (\$1,000). In exercising its discretion*  
29 *the court shall consider the extent of the defendant's commercial*  
30 *motivation for the offense.*

31 *(3) The court may place the defendant on probation with*  
32 *conditions that include, but are not limited to, a fine and community*  
33 *service.*

34 *(c) Prosecution under this section shall not preclude prosecution*  
35 *under any other applicable provision of law.*

36 SEC. 4. Section 14610.1 of the Vehicle Code is amended to  
37 read:

38 14610.1. (a) No person shall manufacture or sell an  
39 identification document of a size and form substantially similar to  
40 the ~~drivers'~~ *driver's* licenses issued by the department.

1 ~~(b) A violation of this section is a misdemeanor and shall be~~  
2 ~~punished by a fine of one thousand dollars (\$1,000), 24 hours of~~  
3 ~~community service, and, in the court's discretion, imprisonment~~  
4 ~~of not more than one year in a county jail. No part of the fine or~~  
5 ~~community service shall be suspended or waived.~~

6 *(b) A violation of this section is a misdemeanor and shall be*  
7 *punished as follows:*

8 *(1) The court shall impose a fine between two hundred fifty*  
9 *dollars (\$250) and one thousand dollars (\$1,000), inclusive, and*  
10 *24 hours of community service, during hours when the person is*  
11 *not employed or is not attending school. No part of the fine or*  
12 *community service shall be suspended or waived.*

13 *(2) In lieu of the penalties in paragraph (1) the court, in its*  
14 *discretion, may impose a jail term of up to one year and a fine of*  
15 *up to one thousand dollars (\$1,000). In exercising its discretion*  
16 *the court shall consider the extent of the defendant's commercial*  
17 *motivation for the offense.*

18 *(3) The court may place the defendant on probation with*  
19 *conditions that include, but are not limited to, a fine and community*  
20 *service.*

21 *(c) Prosecution under this section shall not preclude prosecution*  
22 *under any other applicable provision of law.*

23 SEC. 5. No reimbursement is required by this act pursuant to  
24 Section 6 of Article XIII B of the California Constitution because  
25 the only costs that may be incurred by a local agency or school  
26 district will be incurred because this act creates a new crime or  
27 infraction, eliminates a crime or infraction, or changes the penalty  
28 for a crime or infraction, within the meaning of Section 17556 of  
29 the Government Code, or changes the definition of a crime within  
30 the meaning of Section 6 of Article XIII B of the California  
31 Constitution.